

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15745 of Portia C. Shields, pursuant to 11 DCMR 3107.2, for a variance from the 900 square feet of land area per apartment unit requirement (Subsection 401.3) to convert a flat to a three-unit apartment house, basement through the third floor in an R-4 District at premises 124 V Street, N.W. (Square 3116, Lot 29).

HEARING DATE:           October 28, 1992  
DECISION DATE:         December 2, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 124 V Street, N.W. on the south side of V Street between 1st Street and Flagler Place, N.W. The subject site consists of a rectangular lot that comprises approximately 1,450 square feet of land area. The lot has a width of 17 feet and a depth of 85.46 feet. The property is zoned R-4.

2. The area surrounding the site is characterized by large single-family row dwellings in an R-4 zone district. To the north of the site are several large Government and private institutional facilities, including the Prospect Hill/Glenwood Cemeteries, McMillan Reservoir, Washington Hospital Center, Veterans Administration Medical Center and the National Rehabilitation Hospital. Northwest of the site are several new residential developments including Park Place, Trinity Walk, the Cloisters, and the Heights.

3. The applicant proposes to convert a three-story plus basement row structure used as a flat into a three-unit apartment building. The proposed conversion would have the second and third floors as a two-bedroom apartment and the first floor and basement each with a one-bedroom apartment.

4. The property is located in the R-4 District which permits as a matter of right, the conversion of row dwellings and flats to apartment house provided there is 900 square feet of land area for each apartment, and; single-family dwellings or flats with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent and a maximum height of three stories/40 feet.

5. The applicant's property, which contains 1,450 square feet, is 250 square feet less than the 2,700 square feet that would be required for three apartment units in an R-4 District.

The applicant is requesting a variance from the minimum lot area requirements of 900 square feet of land area per apartment unit.

6. The applicant maintains that the subject application meets the requirements of the Zoning Regulations related to variances. The applicant stated that the existing use of the property as a two-family flat prohibits the opportunity to provide low and moderate rental housing in the area which is consistent with the density pattern of the neighborhood. She further stated that the continued use of the property as a two-family flat would create a hardship, and would prevent the property's use from being consistent with the Department of Housing and Community Development (DHCD) Loan Agreement, which requires three units of low and moderate rental housing.

7. The applicant maintains that the subject property is not the only nonconforming property in the area. She cited previous cases decided by the Board of Zoning Adjustment (BZA), involving requests for variances such as Case Nos. 12917 and 13975. The applicant maintained that the BZA agreed in case No. 12917, that a unit comprised of the first floor and basement could not be rented without difficulty. In addition, the Board concluded that the narrow width of the lot combined with the large, size of the building created a practical difficulty; that apartments of sufficient size would not create an over dense situation ...". She maintained that many other structures in this neighborhood are used as three-unit apartments. In Case No. 13975, the applicant revealed that the BZA granted relief to a property owner who requested a variance of 1,033 square feet and had an agreement with HUD to provide rental units for low and moderate income persons.

8. By report dated October 21, 1992, and through testimony at the hearing, the Office of Planning (OP), recommended denial of the application. The subject site is rectangular in shape and it is developed with a three-story plus basement rowhouse which is similar to other adjoining rowhouses in the block. At present, the existing structure is being used as a flat which is a matter of right use in the R-4 District in which the property is located. However, the applicant is proposing to use the structure for three apartments which would require a minimum lot area of 2,700 square feet. The lot area in this case is only 1,450 square feet.

In the opinion of OP, the applicant has not established a practical difficulty in this case. The existing structure is similar to other structures in the area which are being used as single-family dwellings or flats. OP believes that the conversion of the existing structure to three dwelling units would have an adverse impact on the surrounding area and would impair the intent, purpose, and integrity of the R-4 District regulations by increasing the density of development.

9. By letter dated October 27, 1992, the Department of Public Works (DPW) stated that based upon its review of this application, the conversion proposed by the applicant will not impact on the local transportation system. Therefore, the Department has no objection to the application.

10. By memorandum dated October 1, 1992, the D.C. Fire Department (DCFD) stated that it has evaluated the application to determine its impact on emergency operations. Based on this review, the Fire Department stated that it has no objection to the application. The Fire Department noted that fire and life safety features required by city codes such as fire alarms, sprinkler systems, standpipe systems, exits, fire rated separations, fire extinguishers, etc., shall be determined during the plan review process as part of the building permit application review.

11. By report dated September 18, 1992, the representative from Advisory Neighborhood Commission (ANC) 5C-04 expressed support for the application.

12. No one appeared at the hearing to testify in support of the application.

13. One neighbor testified in opposition to the application, raising the following issues: The poor quality of the neighborhood, traffic congestion, parking problems, absentee landlords, the lack of proper maintenance of property and property overcrowding.

14. At the end of the hearing, the Board left the record open to allow the applicant an opportunity to submit a copy of the original plans converting the structure to a flat and to provide the rental guidelines from the Department of Housing and Community Development for low and moderate income tenants. The applicant submitted the plans and a promissory note she executed with the Department of Housing and Community Development.

**FINDINGS OF FACT:**

Based on the evidence of record, the Board finds the following:

1. The physical layout of the structure presently complies with the requirements of the R-4 District.

2. The Advisory Neighborhood Commission did not submit a report.

3. The subject property is similar to other properties in the neighborhood. The Board is not persuaded that the applicant's agreement with the Department of Housing and Community Development creates an exceptional situation.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicant is seeking a variance from the 900 square feet of land area per apartment unit requirement to convert a flat to a three-unit apartment house in an R-4 District.

Granting such a variance, requires a showing through substantial evidence that requiring strict compliance with the Zoning Regulations will create an undue hardship upon the owner in its efforts to make reasonable use of the property. This hardship must arise out of some unique or exceptional condition of the property such as, exceptional, narrowness, shallowness, shape or topographical condition. In addition, the Board must find that granting the application, will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant has not met this burden of proof. The applicant has failed to demonstrate how complying with the zoning regulations will create a practical difficulty for the owner.

The applicant has not submitted any evidence persuasive enough to the Board that the property itself that will demonstrate that has an exceptional condition.

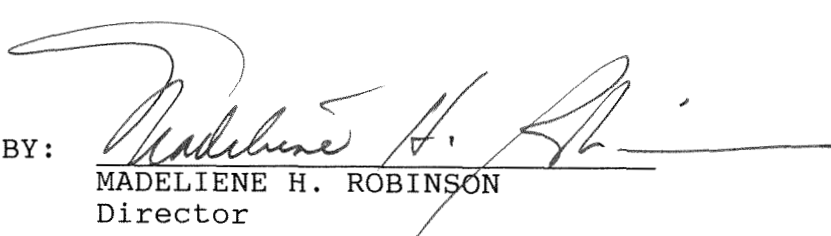
The Board further concludes that granting the application will be a substantial detriment to the public good and will substantially impair the intent, purpose and integrity of the zone plan.

In accord with the above analysis, the application is hereby DENIED.

VOTE: 3-1 (Sheri M. Pruitt, Angel F. Clarens and Paula L. Jewell to deny; Carrie L. Thornhill opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. ROBINSON  
Director

FINAL DATE OF ORDER: \_\_\_\_\_

AUG 2 1994

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UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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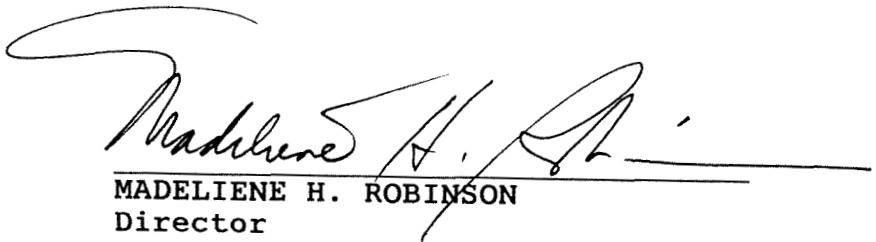
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As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 2 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Portia H. Shields, Ph. D.  
1608 Billman Lane  
Silver Spring, Maryland 20902

Margaret J. Graves  
125 V Street, N.W.  
Washington, D.C. 20001

James D. Berry, Jr., Chairperson  
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1723 - 3rd Street, N.E.  
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MADELIENE H. ROBINSON  
Director

DATE: AUG 2 1994